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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/717,768	11/20/2003	Jay C. Landsiedel	US20030359	8877
173	7590	06/01/2006	EXAMINER	
WHIRLPOOL PATENTS COMPANY - MD 0750 500 RENAISSANCE DRIVE - SUITE 102 ST. JOSEPH, MI 49085			STINSON, FRANKIE L	
			ART UNIT	PAPER NUMBER

1746

DATE MAILED: 06/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/717,768

Applicant(s)

LANDSIEDEL ET AL.

Examiner

FRANKIE L. STINSON

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 April 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-20 and 22-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 14-19 and 33-38 is/are allowed.
- 6) ☒ Claim(s) 2-4, 22, 23, 40 and 42 is/are rejected.
- 7) ☒ Claim(s) 5-13, 20, 24-32, 39 AND 41 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. Claims 2, 22 and 23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Re claim 2, lines, 1-2, the phrase "the inclination angle" is without proper antecedent basis. This is also applicable to claim 22, line 1. Re claim 23, the phrase "the angle of inclination" is without proper antecedent basis.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 40 and 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Claywell et al. (U. S. Pat. No. 3,167,183) in view of EPO'570 (European Patent office 1 264 570).

Re claim 40, Claywell is cited disclosing a dishwasher for washing dishes, comprising:

a tub (18) comprising a peripheral wall defining a wash chamber;

a basket (30, 31) positionable within the wash chamber, and comprising a bottom wall, and a peripheral wall extending upwardly from the bottom wall to define a utensil holding space;

a water spray assembly (22, 23) located within the wash chamber such that the water spray assembly sprays liquid into the utensil holding space;

at least one side sprayer (22) located in the wash chamber such that the at least one side sprayer sprays liquid laterally into the utensil holding space; and

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an adjustable utensil carrier (see fig. 5 and col. 3, lines 16-41) having a bottom wall is located within the utensil holding space and adjustable for relative movement between a first position (as located on the upper basket 30 as shown in fig. 2, when used as a "cup rack", versus when used as a "glass rack" as shown in the fig.), where a food contact surface of a utensil carried by the utensil carrier is primarily directed toward the spray from one of the water spray assembly (23) and the at least one side sprayer (23), and a second position (as located on lower basket (31) as shown in fig. 2), where the food contact surface is directed toward the spray from both the water spray assembly (23) and the at least one side sprayer (22) that differs from the claims only in the recitation of the spray assembly spraying water through the bottom wall of the basket. EPO'570 is cited disclosing a dishwasher having a water spray assembly (63, 64) that sprays through the bottom of the basket as claimed (see fig. 8). It therefore would have been obvious to one having ordinary skill in the art to modify the spray assembly of Claywell, to include a spray assembly as taught by EPO'570, for the purpose of thoroughly applying washing water to the surface of the utensils. Re claims 2-4, Claywell discloses the approximate angle, the movable basket as claimed

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 42, 22 and 23 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Claywell et al.

6. Claims 5-13, 20, 24-32, 39 and 41 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. Claims 14-19 and 33-38 are allowed.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. In EPO'725, Japan'670, Japan'103, Germany'559, Japan'768 and Japan'065, note the adjustable utensil carriers.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to FRANKIE L. STINSON whose telephone number is (571) 272-1308. The examiner can normally be reached on M-F from 5:30 am to 2:00 pm and some Saturdays from approximately 5:30 am to 11:30 am.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Barr, can be reached on (571) 272-1700. The fax phone number for the organization where this application or proceeding is assigned is 571-272-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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For more information about the PAIR system, see <http://pair-direct.uspto.gov>.

Should you have questions on access to the Private PAIR system, contact the

Electronic Business Center (EBC) at 866-217-9197 (toll-free).

fls



FRANKIE L. STINSON
Primary Examiner
GROUP ART UNIT 1746